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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,847	04/12/2001	B.C. Hornady	HORNADY-2	2215

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,847

Applicant(s)

HORNADY, B.C.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on 11/4/2003. These drawings are acknowledged by the examiner.

Claim Objections

2. Claims 2, 13, and 16 are objected to because of the following informalities:

In claim 1, a period should be inserted after "track" on line 2.

In claim 13, line 3, "a payload" should be "the payload".

In claim 16, line 4, "it" is recited which is inappropriate language for the claim and should perhaps be either "the covering" or "the trailing portion". Also on line 5, "a payload" should be "the payload". Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "which rod" in lines 9-10. This is indefinite and should perhaps be "wherein the rod" or "wherein said rod".

Claim 15 recites the limitation "which rod" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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Claim 19 recites the limitation "which rod" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573 in view of Ray and GB '758.

JP '573 discloses the apparatus of the claimed invention including a payload 3, suspended track 59, hoist 15, 17, spreader bar 13, attaching means 23, covering 21, and rod 25 (or means to support a trailing portion of the covering). In addition, JP '573 inherently discloses (but does not specifically show) a retractable line. Initially the covering 21 is attached to the spreader bar 13. Then the retractable line lifts the crane (or hoist 15) to bring the covering 21 to an upper position of the rod 25. In order for the covering 21 to be lifted to the desired height, the retractable line must inherently be maneuverable in at least an up and down or vertical direction (see abstract). The rod 25 traverses beneath the track. The rod 25 is positioned below the hoist and above an expected height of the payload. At least a portion of the covering passes over the rod. The rod is vertically positioned between a highest point on the vehicle and a lowest point on the track.

In addition, a method for covering the payload of the vehicle is also inherently disclosed which includes attaching the covering to the hoist, raising a leading edge of the covering to a

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height higher than the rod, moving the leading edge over and beyond the rod in the direction of the payload, whereby the covering passes at least partially over the rod, lowering the leading edge, and detaching the leading edge.

JP '573 lacks the retractable line being maneuverable in multiple directions.

Ray teaches a conventional crane with a retractable line or lift cable 92 which is capable of being wound on a drum. The retractable line or lift cable is flexible and can be maneuvered in multiple directions (as is apparent from the winding of the cable on the drum).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the apparatus of JP '573 with a flexible cable as the retractable line as taught by Ray in order to move the retractable line in multiple directions to more easily attach the covering thereto.

With regard to claim 1, JP '573, as modified, lacks the rod being supported independently of the vehicle.

GB '758 teaches an apparatus (Figures 1e-1g) including a payload, a covering or sheet, and a rod 14. The apparatus is used for covering a vehicle. The rod 14 is independent of the vehicle. GB '758 also teaches the desirability of such a rod so that the vehicle can be moved with respect to the rod and the rod can remain stationary. The rod is free standing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have allowed the rod of JP '573, as modified, to be provided independent and separate from the vehicle as taught by GB '758 in order to allow the vehicle to move away from the rod once the payload is covered thereby saving time and energy by eliminating the need for the removal of the rod when transporting the payload.

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5. Claims 4, 5, 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as modified, in view of Ray and GB '758, and applied to claim 1 above and further in view of Casteel.

Casteel teaches a crane-like apparatus for lifting a structure comprising a support structure with a base 23 and a vertically extending side frame (Figure 1) rigidly attached thereto; and rigid arms 11, 12 extending in perpendicular fashion from generally the same height of the side frame. The base is mounted on wheels 22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the track of JP '573, as twice modified, upon the support structure of Casteel in order to allow the track to be moved not only in a vertical direction but also to other locations as well.

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as thrice modified, in view of Ray, GB '758, and Casteel, and applied to claim 4 above.

JP '573, as thrice modified, now discloses the track being suspended a sufficient distance away from the side frame such that the track may be suspended generally over the vertical centerline of a payload positioned beneath. The arms are apparently extended from the support structure at a sufficient height to overhang variable sized payloads positioned beneath.

7. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as thrice modified, in view of Ray, GB '758, and Casteel, and applied to claim 4 above and further in view of the well know prior art.

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Tether lines are very well known in the prior art. Tether lines are used to secure a person to an apparatus or structure while that person is performing a task. The tether line protects the person from falling. Tether lines often can be suspended from a support structure in a generally parallel fashion to a track or rail and a safety cable can be slidably engaged at one end to the tether line. (See previously cited references to Riches et al. '427, Lebow '152, Noles '599, and Choate 2002/0046902 A1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a conventional tether line and safety cable of the well known prior art to the apparatus of JP '573, as thrice modified, in order to protect a person working on the apparatus.

8. Claims 9-10, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as twice modified, in view of Ray and GB '758, and as applied to claim 1 above and further in view of Stewart '028.

Stewart '028 teaches an apparatus, for load handling, comprising: a suspended track, a hoist slidably engaged to the track; and means 96, 97 to move the hoist. The means to move the hoist comprise an electronically operable remote controlled system. In addition, the apparatus further comprises a guide 97 extending laterally from the hoist; and a wire (not numbered but seen in Figures 1 and 3) connected at one end to the hoist, running along the guide, and connected at the other end to the remote controlled system 96.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an electronically operable remote controlled system, guide, and wire,

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as taught by Stewart '028, in place of the means of JP '573, as twice modified, in order to allow one man control of the entire crane assembly from ground level thereby allowing an operator to easily move the hoist while remaining a distance away from the hoist thereby remaining safe.

9. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as twice modified, in view of Ray and GB '758, and applied to claim 1 above and further in view of Carlsson.

Carlsson discloses a snap shackle. A user can easily and conveniently operate this snap shackle with one hand and the snap shackle is not complicated, heavy, or expensive to produce. Accordingly, one of ordinary skill in the art at the time the invention was made would have used spring loaded locking mechanisms or snap shackles as taught by Carlsson in place of the hanging fixtures of JP '573, as twice modified, in order to allow a user to easily operate the snap shackle with one hand thereby providing the user one hand to hold on to something during the operation of the shackle.

Response to Arguments

10. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496. The examiner can normally be reached on M-F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3297 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

13. **Any response to this final action should be mailed to:**

Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231


or faxed to:

(703) 872-9327, (for formal communications; please mark "EXPEDITED PROCEDURE")

or:

(703) 746-3515, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

hlg
November 19, 2003


D. GLENN DAYOAN 11/19/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600